



Australian Capital Territory

Prohibited Weapons Act 1996

A1996-75

Republication No 10

Effective: 28 April 2010 – 15 July 2010

Republication date: 28 April 2010

Last amendment made by A2010-13

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Prohibited Weapons Act 1996* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 28 April 2010. It also includes any amendment, repeal or expiry affecting the republished law to 28 April 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

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R10
28/04/10

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Australian Capital Territory

Prohibited Weapons Act 1996

An Act to prohibit the possession of certain dangerous weapons and other articles, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Prohibited Weapons Act 1996*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition, '*firearm*—see the *Firearms Act 1996*, section 6.' means that the term 'firearm' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

2A Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 5 (Offence—unauthorised possession or use of prohibited weapons)
- s 6 (Offence—unauthorised possession or use of prohibited articles)

- s 8 (Offence—disposal of prohibited weapons and articles by unauthorised holders).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

3 **Meaning of *possession*—Act**

- (1) For this Act, a person has *possession* of a prohibited weapon or prohibited article if the person—
 - (a) has the weapon or article on his or her person, including in something carried or worn by the person (*physical possession*); or
 - (b) has the weapon or article at premises owned, leased or occupied by the person; or
 - (c) otherwise has the care, control or management of the firearm.
- (2) Also, for this Act, a person has *possession* of a prohibited weapon or prohibited article if—
 - (a) part of the weapon or article is in the person's possession; and
 - (b) other parts of the weapon or article are in the possession of 1 or more other people; and
 - (c) at least 1 of the other people is in possession of the other part or parts for an agreed purpose with the person; and
 - (d) the parts would make up the weapon or article if fitted together.

3A Evidence of possession—prohibited weapons or articles at premises

- (1) For this Act, a person is not taken to have possession of a prohibited weapon or prohibited article only because the weapon or article is at premises owned, leased or occupied by the person if—
 - (a) the person does not know that the weapon or article is at the premises; or
 - (b) someone else who is authorised to possess the weapon or article—
 - (i) is also at the premises; or
 - (ii) has the care, control or management of the weapon or article; or
 - (c) someone else who is not authorised to possess the weapon or article has the care, control or management of the weapon or article; or
 - (d) the trier of fact is otherwise satisfied that the person was not in possession of the weapon or article.
- (2) To remove any doubt, a defendant to a prosecution for an offence against this Act who wishes to rely on a matter mentioned in subsection (1) has the evidential burden in relation to the matter.

3B Evidence of possession—care, control or management of prohibited weapon or article

- (1) To work out whether a person has the care, control or management of a prohibited weapon or prohibited article for this Act, each of the following must be considered:
 - (a) whether the person knows about the weapon or article;
 - (b) whether the person can use or dispose of the weapon or article;
 - (c) whether the person can control or prevent someone else from using or having physical possession of the weapon or article.

(2) In this section:

physical possession—see section 3 (1) (a).

4 Application of Act

- (1) A person does not commit an offence against this Act only because of something done by the person in the exercise of the person's functions as a member of—
- (a) the Australian Federal Police or a police force of a State or another Territory; or
 - (b) a police service or force of a foreign country required to possess or use a prohibited weapon or prohibited article for taking part in a training activity—
 - (i) conducted by the Australian Federal Police; and
 - (ii) carried out in the ACT; or
 - (c) the Defence Force; or
 - (d) a visiting force within the meaning of the *Defence (Visiting Forces) Act 1963* (Cwlth); or
 - (e) the Australian Cadet Corps established under the *Defence Act 1903* (Cwlth); or
 - (f) the council of the Australian War Memorial or of the staff of the memorial who, in the exercise of his or her functions and duties in accordance with the *Australian War Memorial Act 1980* (Cwlth), has in his or her possession a prohibited weapon, forming part of the memorial collection within the meaning of that Act; or

- (g) the council of the National Museum of Australia or of the staff of the museum who, in the exercise of his or her functions and duties in accordance with the *National Museum of Australia Act 1980* (Cwlth), has in his or her possession a prohibited weapon forming part of the memorial collection under that Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and permits (see *Legislation Act 2001*, s 104).

- (2) A corrections officer does not commit an offence against this Act only because of something done by the officer in the exercise of the officer's functions.

Note *Corrections officer*, *exercise* and *function* are defined in the *Legislation Act*, dict, pt 1.

Part 1A Important concepts

4A Meaning of *prohibited weapon*—Act

(1) In this Act:

prohibited weapon—

(a) means—

- (i) a weapon or thing described in schedule 1; and
- (ii) a weapon or thing prescribed by regulation; and
- (iii) something declared to be a prohibited weapon under section 4L; and

(b) includes a modified prohibited weapon.

(2) However, *prohibited weapon* does not include something declared not to be a prohibited weapon under section 4L.

(3) A regulation may amend schedule 1—

- (a) by adding the name or description of a weapon or thing; or
- (b) by amending a name or description of a prohibited weapon to more accurately describe the weapon; or
- (c) by omitting the name and description of a prohibited weapon.

(4) In this section:

modified prohibited weapon means a weapon or thing that would be a prohibited weapon if—

- (a) it did not have something missing from it, or a defect or obstruction; or
- (b) something had not been added to it.

4B Meaning of *prohibited article*—Act

(1) In this Act:

prohibited article—

(a) means—

- (i) an article described in schedule 2; and
- (ii) an article prescribed by regulation; and
- (iii) something declared to be a prohibited article under section 4L; and

(b) includes a modified prohibited article.

(2) However, *prohibited article* does not include something declared not to be a prohibited article under section 4L.

(3) A regulation may amend schedule 2—

- (a) by adding the name or description of an article; or
- (b) by amending a name or description of a prohibited article to more accurately describe the article; or
- (c) by omitting the name and description of a prohibited article.

(4) In this section:

modified prohibited article means an article that would be a prohibited article if—

- (a) it did not have something missing from it, or a defect or obstruction; or
- (b) something had not been added to it.

Part 1B Unregulated weapons

4C Meaning of *unregulated weapon*—Act

In this Act:

unregulated weapon—a thing is an *unregulated weapon* if—

- (a) the thing is designed, made or altered to be used as a weapon; and
- (b) the only practical use of the thing is as a weapon; and
- (c) the thing is not a prohibited weapon; and
- (d) the possession or use of the thing is not authorised under this Act.

4CA Meaning of *connected*—pt 1B

In this part:

connected—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

4D Unregulated weapons—seizure by police

A police officer may seize a thing if the police officer believes on reasonable grounds that the thing is an unregulated weapon and that the seizure is necessary—

- (a) because the thing would pose a risk to the safety of anyone if used; and

- (b) to prevent the thing from being used or concealed, lost or destroyed.

4E Unregulated weapons—receipt for seizure

- (1) A police officer who seizes a thing under section 4D must give a receipt for the thing to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the police officer must leave the receipt, secured conspicuously, at the premises where it was seized (the *place of seizure*).
- (3) The receipt must include the following:
 - (a) a description of the thing seized;
 - (b) an explanation of why the thing was seized;
 - (c) the police officer's name, and how to contact the officer;
 - (d) if the thing is removed from the place of seizure under section 4F—the address of the place to which the thing is removed.

4F Unregulated weapons—examination

- (1) A police officer who seizes a thing under section 4D (Unregulated weapons—seizure by police) may remove the thing from the premises where it was seized to another place for examination or processing, for not longer than 7 days (the *7-day period*).
- (2) A police officer may apply to the Magistrates Court for an extension of the 7-day period if the officer believes on reasonable grounds that the thing cannot be examined or processed within that time.
- (3) The police officer must, if practicable, give notice of the application to the person from whom the thing was seized, and the person is entitled to be heard on the application.

- (4) The court may order the extension if satisfied on reasonable grounds that the thing cannot be examined or processed within the 7-day period.
- (5) If a thing is moved to another place under this section, the police officer must, if practicable, tell the person from whom the thing was seized (or the person's representative) the results of the examination or processing.

4G Unregulated weapons—access to things seized

A person who would, apart from the seizure, be entitled to inspect a thing seized under section 4D (Unregulated weapons—seizure by police) may inspect it.

4H Unregulated weapons—review of decision to seize

- (1) The registrar must review each seizure under section 4D (Unregulated weapons—seizure by police) and order the return of the thing to the person from whom it was seized if—
 - (a) when seized, the thing was not—
 - (i) an unregulated weapon; or
 - (ii) a prohibited weapon; or
 - (b) within 30 days after the day of seizure, the thing is not a prohibited weapon; or
 - (c) the registrar has no reasonable grounds to believe that the thing is connected with an offence against any of the following:
 - (i) this Act;
 - (ii) the *Firearms Act 1996*;
 - (iii) the *Crimes Act 1900*;
 - (iv) the Criminal Code;
 - (v) another law prescribed by regulation.

- (2) If a thing is ordered to be returned under subsection (1) to the person from whom it was seized, but it cannot be returned, the Territory must pay reasonable compensation to the owner of the thing for its loss.
- (3) In this section:
offence includes an offence that there are reasonable grounds for believing has been, is being or will be, committed.

4I Unregulated weapons—forfeiture

- (1) A thing seized under section 4D (Unregulated weapons—seizure by police) is forfeited to the Territory if there is no requirement under section 4H—
- (a) to return the thing to the person from whom it was seized; or
 - (b) to pay compensation for the thing.
- (2) A thing forfeited to the Territory may be destroyed or otherwise disposed of as the chief executive directs.

Part 1C Minister's guidelines

4K Minister's guidelines

- (1) The Minister may make guidelines about the making of a decision by the registrar under section 4L.
- (2) The registrar must comply with any guidelines under this section.
- (3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Part 1D Declarations about prohibited articles and weapons

4L Prohibited articles and weapons declarations by registrar

- (1) The registrar may, in accordance with any guidelines under section 4K (Minister's guidelines), do any of the following:
 - (a) declare something to be a prohibited article;
 - (b) declare an unregulated weapon to be a prohibited weapon;
 - (c) declare that something is not a prohibited article or prohibited weapon.
- (2) A declaration remains in force for 3 months beginning on the day after the day the declaration is notified under the Legislation Act.
- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) The registrar must also publish the declaration in a daily newspaper.

Note **Daily newspaper**—see the Legislation Act, dictionary, pt 1.

4M Effect of certain declarations

A person does not commit an offence against this Act in relation to the possession or use of a thing that is the subject of a declaration under section 4L (1) (a) or (b) if the elements of the offence happen less than 2 days after the day the declaration is notified under the Legislation Act.

Part 2 Offences

5 **Offence—unauthorised possession or use of prohibited weapons**

A person commits an offence if the person—

- (a) possesses or uses a prohibited weapon; and
- (b) is not authorised by a permit, or otherwise under this Act, to possess or use the weapon.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

6 **Offence—unauthorised possession or use of prohibited articles**

A person commits an offence if the person—

- (a) possesses or uses a prohibited article; and
- (b) is not authorised by a permit, or otherwise under this Act, to possess or use the article.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

6A Declarations about authorised possession and use of laser pointers

- (1) The registrar may, in accordance with any guidelines under section 6B, declare that the possession or use of a laser pointer is authorised.

Note 1 A power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters (see Legislation Act, s 48.)

Note 2 A reference to an Act includes a reference to a provision of an Act (see Legislation Act, s 7 (3)).

- (2) A declaration may provide for the authorisation—

- (a) to apply generally or in a particular case; or
(b) to be conditional.

- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) In this section:

laser pointer means a prohibited weapon that is a hand-held article, commonly known as a laser pointer, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW.

6B Guidelines for declarations under section 6A

- (1) The Minister may make guidelines about the making of a declaration under section 6A.
(2) The registrar must comply with any guidelines under this section.
(3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

7 Inspection of prohibited weapons or articles by police

- (1) A person who possesses a prohibited weapon or prohibited article shall, on demand made by a police officer at any time, produce for inspection by that officer—
- (a) the weapon or article; and
 - (b) any permit that authorises the person to possess the weapon or article.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence against subsection (1) only if the police officer, when making the demand, explains to the person that failure to comply with the demand is an offence against this Act.
- (3) In subsection (1), a reference to a *prohibited weapon* or a *prohibited article* includes a reference to a part of a prohibited weapon or a prohibited article.

8 Offence—disposal of prohibited weapons and articles by unauthorised holders

- (1) A person commits an offence if—
- (a) the person has possession of a prohibited weapon or prohibited article; and
 - (b) the person is not, or is no longer, authorised by a permit or otherwise under this Act to possess the weapon or article; and
 - (c) within 7 days after the day the person comes into possession of, or is no longer authorised to possess, the weapon or article, the person fails—
 - (i) to surrender the weapon or article to a police officer; or

- (ii) to dispose of the weapon or article to someone who is authorised by a permit to possess it.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person does not contravene any other provision of this Act because the person—
 - (a) disposed of or surrendered a prohibited weapon or prohibited article in accordance with this section; or
 - (b) accepted a prohibited weapon or prohibited article under this section.

Part 3 Permits

9 Permits

- (1) The registrar may issue a permit authorising—
 - (a) the possession or the possession and use of a prohibited weapon; or
 - (b) the possession of a prohibited article.
- (2) The regulations may provide for mandatory or discretionary grounds for refusing the issue of a permit.
- (3) A permit may be issued subject to conditions.
- (4) The conditions may provide for the expiration of the permit, limit the authority it confers and impose requirements on the person to whom the permit is issued.
- (5) The registrar may, for any reason the registrar considers sufficient, cancel a permit by causing written notice of its cancellation to be served on the person to whom the permit was issued.
- (6) A person to whom a permit was issued may surrender the permit for cancellation.

11 Contravention of conditions

A person to whom a permit is issued shall not contravene any requirement made by the conditions of a permit.

Maximum penalty: 50 penalty units.

12 Production of permit

- (1) A person to whom a permit is issued shall, on demand of a police officer at any time—
- (a) produce the permit for inspection by the police officer if the person has the permit in his or her possession; or
 - (b) state the person's full name and usual place of residence to the police officer.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence against subsection (1) only if the police officer, when making the demand, explains to the person that failure to comply with the demand is an offence against this Act.

13 Surrender of cancelled permit

If a permit is cancelled or expires, the person to whom it was issued shall within 7 days of that cancellation or expiry, surrender it to the registrar.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Part 3A Notification and review of decisions

14 Meaning of *reviewable decision*—pt 3A

In this part:

reviewable decision means a decision mentioned in schedule 3, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

14A Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 3, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

14B Applications for review

The following may apply to the ACAT for a review of a reviewable decision:

- (a) an entity mentioned in schedule 3, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Part 4 Miscellaneous

15 Information to be supplied

A person who has possession of a prohibited weapon or prohibited article acquired from another person shall, on demand made by a police officer at any time, inform the police officer of—

- (a) the name and address of the person from whom the weapon or article was acquired; and
- (b) the date on which it was acquired.

Maximum penalty: 50 penalty units.

16 Disposal of surrendered or seized prohibited weapons or prohibited articles

- (1) A magistrate may, on application by a police officer or by any person who claims to be the owner of a prohibited weapon or prohibited article surrendered to or seized by a police officer in accordance with this Act, order that the weapon or article—
 - (a) be forfeited to the Territory; or
 - (b) be returned to the person claiming to be the owner of the weapon or article; or
 - (c) be otherwise disposed of in such manner as the court thinks fit.
- (2) If a person is found guilty of an offence against this Act and a weapon or article has been seized by a police officer in connection with the offence, the court which makes the finding of guilt is taken to have ordered that the weapon or article be forfeited to the Territory.
- (3) A weapon or article forfeited under subsection (2) may be destroyed.

17 Evidentiary provisions

A certificate signed by the registrar stating the following is evidence of the matter stated:

- (a) at a stated time or during a stated period, a stated person was, or was not, the holder of a stated permit (or of a permit for a stated prohibited weapon or prohibited article);
- (b) a permit was or was not, on a day or during a stated period, subject to a stated condition.

17A Determination of fees

- (1) The Minister may determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

18 Approved forms

- (1) The registrar may, in writing, approve forms for this Act.
- (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

19 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Part 5 Transitional

50 Definitions—pt 5

In this part:

commencement day means the day 1 year after the day the *Firearms Amendment Act 2008* is notified.

dispose, of a prohibited weapon or article, means sell, give away or otherwise transfer possession of the weapon or article.

pre-commencement Act means this Act as in force at any time before the commencement day.

51 Pre-commencement Act—permitted weapons and articles generally

- (1) This section applies to a weapon or article that—
 - (a) is not, before the commencement day, a prohibited weapon or prohibited article; and
 - (b) will be, on the commencement day, a prohibited weapon or prohibited article.
- (2) A person may apply to the registrar for a permit for the weapon or article at any time before the commencement day.
- (3) For an application mentioned in subsection (2), section 9 (Permits), section 13 (Surrender of cancelled permit) and section 14 (Review of decisions) apply as if the weapon or article were a prohibited weapon or prohibited article.
- (4) The person is exempt from any fee that would otherwise be payable to the registrar for—
 - (a) the application; and
 - (b) if a permit is issued to the person—the issue of the permit.

- (5) A person may before the commencement day—
 - (a) surrender the weapon or article to a police officer; or
 - (b) dispose of the weapon or article to someone who is authorised by a permit to possess it.
- (6) A weapon or article surrendered under this section—
 - (a) is forfeited to the Territory; and
 - (b) may be destroyed or otherwise disposed of as the chief executive directs.

52 Pre-commencement Act—permitted weapons and articles—late application for permit

- (1) This section applies if—
 - (a) a person applies under section 51 for a permit for a weapon or article during the period beginning 30 days before the commencement day; and
 - (b) the registrar has not decided whether to issue or refuse to issue the permit before the commencement day.
- (2) The person does not commit an offence against this Act in relation to the possession or use of the weapon or article if the elements of the offence happen—
 - (a) during the period the registrar is deciding; and
 - (b) if the registrar decides to refuse to issue the permit—during the period of 7 days (the *7-day period*) beginning on the day after the day the person receives notice of the registrar’s decision.
- (3) A person mentioned in subsection (2) (b) may, during the 7-day period—
 - (a) surrender the weapon or article to a police officer; or
 - (b) dispose of the weapon or article to someone who is authorised by a permit to possess it; or

- (c) if the person decides to apply to the AAT for a review of the decision of the registrar to refuse to issue the permit—ask the registrar to store the weapon or article until the application, and any subsequent appeal, are finally decided.
- (4) If the person's application or appeal is successful, the weapon or article must be returned to the person.
- (5) If the person's application or appeal is not successful, the weapon or article is taken to be surrendered to the registrar.
- (6) A weapon or article surrendered under this section—
 - (a) is forfeited to the Territory; and
 - (b) may be destroyed or otherwise disposed of as the chief executive directs.

53 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Firearms Amendment Act 2008*.
- (2) A regulation may modify this part to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

54 Expiry—pt 5

This part expires 1 year after the commencement day.

Schedule 1 Prohibited weapons

(see s 4A)

Part 1.1 Prohibited bladed weapons

column 1 item	column 2 description
1	a flick knife or other similar device that has a blade folded or recessed into the handle which opens automatically by— <ul style="list-style-type: none">(a) gravity or centrifugal force; or(b) pressure applied to a button, spring or device in or attached to the handle of the device
2	a sheath knife or other similar device that has a sheath that withdraws into the handle by— <ul style="list-style-type: none">(a) gravity or centrifugal force; or(b) pressure applied to a button, spring or device in or attached to the handle of the device

column 1 item	column 2 description
3	<p>a dagger or other similar device, that has a sharp-pointed stabbing instrument—</p> <ul style="list-style-type: none">(a) that can be concealed on the person; and(b) that—<ul style="list-style-type: none">(i) has a flat blade with cutting edges (whether serrated or non-serrated) along the length of both sides; or(ii) has a needle-like blade, the cross section of which is elliptical or has three or more sides; and(iii) is not a sword or bayonet <p>Example Urban Skinner push dagger</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p>
4	<p>a butterfly knife, balisong or other similar device that consists of a blade (whether single-edged or multi-edged) or spike that—</p> <ul style="list-style-type: none">(a) fits within 2 handles attached to the blade or spike by transverse pivot points; and(b) can be opened by gravity or centrifugal force
5	<p>a star knife or other similar device that—</p> <ul style="list-style-type: none">(a) consists of 2 or more angular points, blades or spikes that spreads out about a central axis point; and(b) is designed to spin around the knife's central axis point in flight when thrown at a target

Schedule 1
Part 1.1

Prohibited weapons
Prohibited bladed weapons

column 1 item	column 2 description
6	a trench knife or other similar device that— (a) consists of a blade (whether single-edged or multi-edged) or spike; and (b) is fitted with a handle made of a hard substance; and (c) is either made or modified to be fitted over the knuckles of the hand of the user— (i) to protect the knuckles; and (ii) to increase the effect of a punch or blow
7	a knife that can discharge a blade as a projectile by a spring mechanism or other means (known as a ballistic knife)
8	a blade, knife or axe that is either made or modified to be thrown
9	a claw (known as a hand or foot claw) made or modified to be attached to or worn on the hand or foot to cause injury to someone else

Part 1.2 Prohibited hand weapons

column 1 item	column 2 description
1	a knuckle-duster or other similar device, made or modified to be fitted over the knuckles of the hand of the user— (a) to protect the knuckles; and (b) to increase the effect of a punch or other blow
2	a sap glove or other weighted glove (including a fingerless glove) made or modified to be used as a weapon
3	a studded glove, or other similar hand covering, that incorporates protrusions designed to puncture or bruise the skin
4	a mace or other similar device (other than a ceremonial mace made for use solely as a symbol of authority on ceremonial occasions) that— (a) can cause injury; and (b) consists of a club or staff fitted with a flanged or spiked head
5	a flail or other similar device consisting of a staff or handle that has fitted to 1 end, by any means, a freely swinging part armed with spikes or studded with any protruding matter
6	a whip, the lash of which is comprised completely or partly of metal
7	a cat-o'-nine-tails or other similar device whether or not it has 9 lashes
8	nunchakus or kung-fu sticks or other similar device

column 1 item	column 2 description
9	a side-handled baton or other similar device that— (a) consists of a baton, staff or rod; and (b) is made of a hard substance; and (c) has fitted to 1 side a handle (whether or not permanently fixed)
10	an extendable or telescopic baton, made or modified so that the length of the baton extends by— (a) gravity; or (b) centrifugal force; or (c) pressure applied to a button, spring or device in or attached to the handle of the baton

Part 1.3 Prohibited missile weapons

column 1 item	column 2 description
1	a spear gun with an overall length of less than 45cm when unloaded
2	a hunting sling, catapult or sling shot made or modified for use with, or a component part of which is, a brace that— <ul style="list-style-type: none">(a) fits or rests on the forearm or other part of the body; and(b) supports the wrist or forearm against the tension of the material used to propel a projectile
	Example a Saunders ‘falcon’ hunting sling
	<i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
3	a crossbow or other similar device manufactured on or after 1 January 1900
4	a blow gun, blow-pipe or dart projector that consists of a pipe or tube through which a dart or other device can be projected by— <ul style="list-style-type: none">(a) the exhaled breath of the user; or(b) the use of an elasticised band; or(c) means other than by an explosive
5	a shark dart or other similar device designed to expel, on or after contact, a gas or other substance that can cause bodily harm
	Example a Farallon shark dart

Part 1.4 Other prohibited weapons

column 1 item	column 2 description
1	<p>an explosive, incendiary, irritant or poison gas—</p> <ul style="list-style-type: none">(a) bomb; or(b) grenade; or(c) rocket with a propellant charge of more than 100g; or(d) missile with an explosive or incendiary charge of more than 7g; or(e) mine
2	<p>a device or apparatus made or modified for use with a gas or liquid, if the device or apparatus is—</p> <ul style="list-style-type: none">(a) capable of killing or incapacitating someone; or(b) made or modified to kill or incapacitate someone
3	<p>A flame thrower or any other device of military design that can propel ignited incendiary fuel</p>
4	<p>A hand-held or other electric device designed to administer an electric shock on contact, other than a piece of medical equipment or electric prod designed exclusively for use with animals</p> <p>Example—hand-held electric device a taser self-defence weapon</p> <p>Examples—other electric device 1 a taxi protection cushion system 2 a super safety suitcase</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p>

column 1 item	column 2 description
5	a thing made or intended as a defence or antipersonnel spray that can discharge by any means an irritant (other than an irritant matter mentioned in item 6) in liquid, powder, gas or chemical form
6	a thing made or intended as a defence or antipersonnel spray that can discharge by any means an irritant in liquid, powder, gas or chemical form, including but not limited to the following: <ul style="list-style-type: none">(a) chloroacetophenone, known as CN;(b) orthochlorobenzalmalononitrile, known as CS;(c) dypenylaminechloroarsone, known as DM or Adamsite;(d) oleoresin capsicum, known as OC
7	an acoustic or light-emitting antipersonnel device made or modified— <ul style="list-style-type: none">(a) to cause permanent or temporary incapacity or disability to a person; or(b) to otherwise physically disorientate a person
8	hand-held articles, commonly known as laser pointers, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW

Schedule 2 Prohibited articles

(see s 4B)

column 1 item	column 2 description
1	an article commonly known as soft body armour
2	a modified article of clothing, accessory or adornment a purpose of which is to disguise or conceal a weapon
	Examples—modified articles
	1 a walking stick containing a sword
	2 a riding crop containing a stiletto
	3 a Bowen knife belt
	<i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
3	an article or device intended for use to muffle, reduce or stop the noise created by firing a firearm
4	equipment made or modified to make a smoke screen
5	a trip flare
6	a rimfire magazine with a capacity of more than 15 rounds
7	a pistol magazine with a capacity of more than 10 rounds
8	a centre-fire self-loading rifle magazine, or shotgun magazine, with a capacity of more than 5 rounds
9	a shotgun tubular magazine extension to extend the capacity of a shotgun magazine to more than 5 rounds
10	a device that converts a firearm so it can fire in a fully automatic condition
11	a folding, detachable, telescopic or collapsible stock

Schedule 3 Reviewable decisions

(see pt 3A)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	9 (1)	refuse to issue permit	applicant for permit
2	9 (5)	cancel permit	person who held permit

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- corrections officer
- Criminal Code
- exercise
- function
- police officer
- registrar of firearms
- reviewable decision notice
- under.

connected with an offence, for part 1B (Unregulated weapons)—see section 4CA.

dispose, of a prohibited weapon or article, means sell, give away or otherwise transfer possession of the weapon or article.

firearm—see the *Firearms Act 1996*, section 6.

permit means a permit under part 3.

possession—see section 3.

premises means the whole or any part of any land, building or other structure, vehicle, vessel, aircraft or place.

prohibited article—see section 4B.

prohibited weapon—see section 4A.

registrar means the registrar of firearms.

reviewable decision, for part 3A (Notification and review of decisions)—see section 14.

unregulated weapon—see section 4C.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Prohibited Weapons Act 1996 No 75

notified 20 December 1996 (Gaz 1998 No S328)
s 1, s 2 commenced 20 December 1996 (s 2 (1))
remainder commenced 22 May 1997 (s 2 (2) and Gaz 1997 No S140)

as amended by

Prohibited Weapons Regulations 1997 SL No 12

notified 19 May 1997 (Gaz 1997 No S137)
commenced 22 May 1997 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 301

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 301 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.71

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.71 commenced 9 April 2004 (s 2 (1))

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.29

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.29 commenced 2 June 2006 (s 2 (1) and see Crimes (Sentence Administration) Act 2005 A2005-59 s 2, Crimes (Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

Firearms Amendment Act 2008 A2008-25 pt 3, sch 1 pt 1.2

notified LR 15 July 2008
s 1, s 2 commenced 15 July 2008 (LA s 75 (1))
s 76, s 81 commenced 16 July 2008 (s 2 (2))
s 71, s 72, s 82, sch 1 amdt 1.14, amdt 1.16 commenced 15 July 2009 (s 2 (3))
pt 3 remainder, sch 1 pt 1.2 remainder commenced 15 January 2009 (s 2 (1) and LA s 79)

Endnotes

4 Amendment history

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.41

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.41 commenced 15 July 2009 (s 2 (4) and see Firearms Amendment Act 2008 A2008-25, s 2 (3))

Justice and Community Safety Legislation Amendment Act 2009 (No 2) A2009-19 pt 12

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

pt 12 commenced 29 September 2009 (s 2)

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.60

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.60 commenced 22 September 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2010 A2010-13 sch 1 pt 1.5

notified LR 31 March 2010

s 1, s 2 commenced 31 March 2010 (LA s 75 (1))

s 3 commenced 1 April 2010 (LA s 75AA)

sch 1 pt 5 commenced 28 April 2010 (s 2 (4))

4 Amendment history

Name of Act

s 1 sub A2008-25 amdt 1.13

Dictionary

s 2 om 2001 No 44 amdt 1.3294
ins A2008-25 amdt 1.14

Notes

s 2A ins A2008-25 amdt 1.15

Offences against Act—application of Criminal Code etc

s 2B ins A2008-25 amdt 1.15

Meaning of *possession*—Act

s 3 sub A2008-25 s 71

Evidence of possession—prohibited weapons or articles at premises

s 3A ins A2008-25 s 71

Evidence of possession—care, control or management of prohibited weapon or article

s 3B ins A2008-25 s 71

Application of Acts 4 am 2001 No 44 amdt 1.3295, amdt 1.3296; A2006-23
amds 1.272-1.275; A2009-19 s 60; pars renum R9 LA;
A2010-13 amdt 1.27**Important concepts**

pt 1A hdg ins A2008-25 s 72

Meaning of *prohibited weapon*—Act

s 4A ins A2008-25 s 72

Meaning of *prohibited article*—Act

s 4B ins A2008-25 s 72

Unregulated weapons

pt 1B hdg ins A2008-25 s 73

Meaning of *unregulated weapon*—Act

s 4C ins A2008-25 s 73

Meaning of *connected*—pt 1B

s 4CA ins A2008-25 s 73

Unregulated weapons—seizure by police

s 4D ins A2008-25 s 73

Unregulated weapons—receipt for seizure

s 4E ins A2008-25 s 73

Unregulated weapons—examination

s 4F ins A2008-25 s 73

Unregulated weapons—access to things seized

s 4G ins A2008-25 s 73

Unregulated weapons—review of decision to seize

s 4H ins A2008-25 s 73

Unregulated weapons—forfeiture

s 4I ins A2008-25 s 73

Minister's guidelines

pt 1C hdg ins A2008-25 s 73

Minister's guidelines

s 4K ins A2008-25 s 73

Declarations about prohibited articles and weapons

pt 1D hdg ins A2008-25 s 73

Endnotes

4 Amendment history

Prohibited articles and weapons declarations by registrar

s 4L ins A2008-25 s 73
am A2009-20 amdt 3.165, amdt 3.166

Effect of certain declarations

s 4M ins A2008-25 s 73

Offences

pt 2 hdg sub A2008-25 s 74

Offence—unauthorised possession or use of prohibited weapons

s 5 am 2001 No 44 amdt 1.3297
sub A2008-25 s 75

Offence—unauthorised possession or use of prohibited articles

s 6 am 2001 No 44 amdt 1.3298
sub A2008-25 s 75

Declarations about authorised possession and use of laser pointers

s 6A ins A2008-25 s 76

Guidelines for declarations under section 6A

s 6B ins A2008-25 s 76

Offence—disposal of prohibited weapons and articles by unauthorised holders

s 8 sub A2008-25 s 77

Notification and review of decisions

pt 3A hdg ins A2008-36 amdt 1.571

Meaning of *reviewable decision*—pt 3A

s 14 sub A2008-36 amdt 1.571

Reviewable decision notices

s 14A ins A2008-36 amdt 1.571

Applications for review

s 14B ins A2008-36 amdt 1.571

Applications—false or misleading particulars

s 10 om A2004-15 amdt 2.148

Evidentiary provisions

s 17 sub A2008-25 s 78

Determination of fees

s 17A ins A2008-25 s 78

Approved forms

s 18 sub 2001 No 44 amdt 1.3299
(4)-(7) exp 12 September 2002 (s 18 (7))
am A2008-25 s 79

Regulation-making power

s 19 ins 2001 No 44 amdt 1.3299

Transitionalpt 5 hdg ins A2008-25 s 80
exp 15 July 2010 (s 54)**Definitions—pt 5**s 50 ins A2008-25 s 80
exp 15 July 2010 (s 54)
def **commencement day** ins A2008-25 s 80
def **dispose** ins A2008-25 s 80
def **pre-commencement day** ins A2008-25 s 80**Pre-commencement Act—permitted weapons and articles generally**s 51 ins A2008-25 s 80
exp 15 July 2010 (s 54)**Pre-commencement Act—permitted weapons and articles—late application for permit**s 52 ins A2008-25 s 80
exp 15 July 2010 (s 54)**Transitional regulations**s 53 ins A2008-25 s 80
exp 15 July 2010 (s 54)**Expiry—pt 5**s 54 ins A2008-25 s 80
exp 15 July 2010 (s 54)**Prohibited weapons**sch 1 hdg (prev sch hdg) am SL 1997 No 12 reg 15
renum R1 LA
sch 1 am A2008-25 s 81
sub A2008-25 s 82**Prohibited articles**

sch 2 ins A2008-25 s 82

Note for sch 2 sch 2 also ins A2008-36 amdt 1.572
renum as sch 3 R7 LA**Reviewable decisions**sch 3 (prev sch 2) ins A2008-36 amdt 1.572
renum as sch 3 R7 LA**Dictionary**dict ins A2008-25 amdt 1.16
am A2008-36 amdt 1.573, amdt 1.574
def **connected** ins A2008-25 amdt 1.16
def **dispose** ins A2008-25 amdt 1.16

Endnotes

5 Earlier republications

def **firearm** ins A2008-25 amdt 1.16
def **permit** ins A2008-25 amdt 1.16
def **possession** ins A2008-25 amdt 1.16
def **premises** ins A2008-25 amdt 1.16
def **prohibited article** ins A2008-25 amdt 1.16
def **prohibited weapon** ins A2008-25 amdt 1.16
def **registrar** ins A2008-25 amdt 1.16
def **reviewable decision** ins A2008-36 amdt 1.575
def **unregulated weapon** ins A2008-25 amdt 1.16

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R0A 30 July 2003	22 May 1997– 11 Sept 2001	SL1997-12	amendments by SL1997-12
R1 18 Feb 2002	12 Sept 2001– 12 Sept 2002	A2001-44	amendments by A2001-44
R2 13 Sept 2002	13 Sept 2002– 8 Apr 2004	A2001-44	commenced expiry
R3 9 Apr 2004	9 Apr 2004– 1 June 2006	A2004-15	amendments by A2004-15
R4 2 June 2006	2 June 2006– 15 July 2008	A2006-23	amendments by A2006-23
R5 16 July 2008	16 July 2008– 14 Jan 2009	<u>A2008-25</u>	amendments by A2008-25
R6 15 Jan 2009	15 Jan 2009– 14 July 2009	<u>A2008-36</u>	amendments by A2008-25
R7 15 July 2009	15 July 2009– 21 Sept 2009	A2008-36	amendments by A2008-25 and A2008-36

Republication No and date	Effective	Last amendment made by	Republication for
R8 22 Sept 2009	22 Sept 2009– 28 Sept 2009	A2009-20	amendments by A2009-20
R9 29 Sept 2009	29 Sept 2009– 27 Apr 2010	A2009-20	amendments by A2009-19

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